

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

GORDON LARRY AHENAKEW, JR.,

Defendant.

CR 18-07-GF-BMM-JTJ

FINDINGS AND  
RECOMMENDATIONS

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**I. Synopsis**

Defendant Gordon Larry Ahenakew Jr. (Ahenakew) has been accused of violating conditions of his supervised release. (Docs. 57, 67 and 68). Ahenakew admitted the alleged violations. Ahenakew's supervised release should be revoked. Ahenakew should be sentenced to TIME SERVED and released from custody on May 21, 2024, with 12 months of supervised release to follow.

**II. Status**

Ahenakew plead guilty on May 18, 2018, to the offense of Assault Resulting in Serious Bodily Injury to Intimate and Dating Partner, in violation of 18 U.S.C. Sections 1153(a) and 113(a)(7) as charged in the Indictment. (Doc. 19). Ahenakew was sentenced to 15 months of custody followed by 24 months of supervised release.

(Doc. 37). Ahenakew's current term of supervised release began on December 16, 2020.

### **Petition**

On February 22, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Ahenakew's supervised release. (Doc. 57). The Petition alleged Ahenakew violated conditions of his supervised release by (1) failing to comply with substance abuse treatment requirements on January 24, 2024; (2) consuming alcohol on January 25, 2024; (3) failing to comply with substance abuse treatment requirements on February 21, 2024; (4) consuming alcohol on February 21, 2024; (5) by failing to refrain from the use of a controlled substance, admitting that he "got high" on February 21, 2024; and (6) by failing to report as directed on February 21, 2024.

### **Initial Appearance**

Ahenakew appeared before the Court on March 7, 2024. Ahenakew was represented by counsel. Ahenakew stated that he had read the Petition and that he understood the allegations against him. Ahenakew waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

The Court conducted a revocation hearing on March 7, 2024. Ahenakew admitted that he had violated the conditions of supervised release as set forth in the Petition by (1) failing to comply with substance abuse treatment requirements on January 24, 2024; (2) consuming alcohol on January 25, 2024; (3) failing to comply with substance abuse treatment requirements on February 21, 2024; (5) by failing to refrain from the use of a controlled substance, admitting that he “got high” on February 21, 2024; (6) by failing to report as directed on February 21, 2024. The government moved to dismiss allegation (4), which the Court granted. The parties agreed to defer sentencing for 90 days. The Court scheduled a sentencing hearing for June 11, 2024.

### **Amended Petition**

On May 1, 2024, the United States Probation Office filed an Amended Petition for Warrant for Offender Under Supervision, requesting that the Court revoke Ahenakew’s supervised release. (Doc. 67). Also, on May 1, 2024, the United States Probation office filed a Second Amended Petition for Warrant Under Supervision, noting that it had failed to request a warrant concerning the Amended Petition. (Doc. 68). This Second Amended Petition alleged Ahenakew violated the conditions of his supervised release by the added violation of: (7) testing positive for methamphetamine on April 18, 2024.

### **Second Initial Appearance**

Ahenakew appeared before the Court on May 21, 2024. Ahenakew was represented by counsel. Ahenakew stated that he had read the Second Amended Petition and that he understood the allegations against him. Ahenakew waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Second Revocation hearing**

The Court conducted a second revocation hearing on May 21, 2024. The Court noted that Ahenakew had previously admitted to allegations 1, 2, 3, 5, and 6 set forth in the Second Amended Petition. Ahenakew then admitted that he had violated the conditions of supervised release as set forth in the Second Amended Petition by: (7) testing positive for methamphetamine on April 18, 2024.

### **Sentencing hearing**

Ahenakew appeared before the Court on May 21, 2024. The Court noted that Ahenakew had previously admitted to violating the terms of his supervised release as set forth above. Ahenakew's violation is a Grade C violation. His criminal history category is II. Ahenakew's underlying offense is a Class D felony. Ahenakew could be incarcerated for up to 24 months. Ahenakew could be ordered to remain on supervised release for 30 months less any custody time. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

### **III. Analysis**

Ahenakew's supervised release should be revoked. Ahenakew should be sentenced to TIME SERVED and released from custody on May 21, 2024, with 12 months of supervised release to follow. This sentence is sufficient but not greater than necessary.

### **IV. Conclusion**

The Court informed Ahenakew that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Ahenakew of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Ahenakew that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Ahenakew stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocate before Judge Morris.

The Court **FINDS:**

That GORDON LARRY AHENAKEW JR., has violated the conditions of his supervised release by: (1) failing to comply with substance abuse treatment requirements on January 24, 2024; (2) consuming alcohol on January 25, 2024; (3) failing to comply with substance abuse treatment requirements on February 21, 2024; (5) by failing to refrain from the use of a controlled substance, admitting that he "got high" on February 21, 2024; (6) by failing to report as directed on February 21, 2024 and (7) testing positive for methamphetamine on April 18, 2024. .

The Court **RECOMMENDS:**

That the District Court revoke Ahenakew's supervised release and sentence Ahenakew to TIME SERVED, releasing him from custody on May 21, 2024, with 12 months of supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO  
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocate before a district court judge.

DATED this 22nd day of May 2024.

  
John Johnston  
United States Magistrate Judge